

## **MINUTES OF THE MEETING OF THE BAR-BENCH-MEDIA CONFERENCE**

A meeting of the Bar-Bench-Media Conference was held on Wednesday, September 15, 2004 at 12:30 p.m. in the Supreme Court Conference Room. The members of the Conference in attendance were:

Members of the Electronic News Media:

Johnnie Braxton  
Chris Carl

Members of the Print News Media:

Jennifer Batchelor (by telephone)  
Rita Farrell

Members from the Bench:

Justice Jack B. Jacobs  
Chief Judge Chandlee Johnson Kuhn  
Judge John K. Welch

Members from the Bar:

Donald C. Brown, Esquire  
Kathleen Jennings-Hostetter, Esquire  
F. Michael Parkowski, Esquire

Randall Chase of the Associated Press was also present at the meeting.

The first agenda item was the approval of the draft minutes from the May 5, 2004 meeting of the Conference. Upon motion, which was duly seconded, the minutes were unanimously approved as submitted.

The second agenda item, under old business, was the Proposed Administrative

Directive/Rule for Expanded Media. The Chair noted that the Conference was unaware of any media organization taking advantage of the Administrative Directive permitting expanded media coverage in civil, non-jury trials in the Court of Chancery and the Superior Court. It was discussed that the experimental period would end on October 15, 2004 as the Court of Chancery was beginning the trial in the Disney case.

With the exception of Rita Farrell, the Conference wanted to extend the experimental period by six months to permit the electronic media to have the opportunity to cover the Disney trial. The Chair agreed to write a letter to the Chief Justice requesting that the Supreme Court extend this experimental period.

The Conference identified several problems in expanded media access: (1) restriction on cases that can be covered, (2) lack of a mechanism for the identification of cases that the media might want to cover, (3) the lack of dry runs to show the courts that the electronic media equipment would not be disruptive to court proceedings, and (4) media time constraints in dedicating limited resources to court coverage.

The next topic on the agenda was closed court hearings. Rita Farrell asked that this topic be placed on the agenda. She explained that when hearings are closed to the public or documents sealed, there is nothing on the record explaining the reasons for the sealing or the closing. To her, the law clear that there is a presumption that hearings are open and documents are available. The burden to close a hearing or seal

a document is on the party seeking such an order from the court. It seems to her that the presumption is shifting towards sealing documents and closing hearings simply because a lawyer requests such treatment.

It was decided that when the new Superior Court President Judge is confirmed and sworn in , the Conference should seek a meeting with Judge Ambro, Chancellor Chandler, the President Judge of Superior Court, Chief Judge Kuhn, Chief Judge Smalls and Chief Magistrate Griffin and discuss the issues related to closed hearings and sealed documents.

The Essay Contest agenda item was passed until the next meeting.

The Bar-Bench-Media dinner subcommittee has not met to discuss possible topics that would generate CLE credit for lawyers. Topics that were briefly discussed were the Patriot Act, closed courtrooms, school prayer and governmental or attorney leaks to the media. Since Justice Ridgely is no longer a member of the Conference, Chief Judge Kuhn agreed to take his place on the subcommittee.

Rita Farrell was selected and elected as the new Vice Chair of the Conference by the members present who constituted a quorum.

Under the topic of new business, there was a general discussion of the future focus of the Conference. The issue of expanded media coverage of trial courts had recently dominated the Conference's agenda. Since the issue has been addressed, it

was suggested that the Conference address the issue of access to the courts and case related documents by the public and the media. How do the public and the media get access to documents and hearings? When a court holds an office conference or a teleconference, how does the public get access? What are the rules and guidelines? How are the rules and guidelines enforced? What happens if there is non-compliance with the guidelines? How do court-wide guidelines get established? What are the current rules in each court? There is a need to define the issues and perhaps to establish a Conference subcommittee. The subcommittee would propose a course of action for the Conference's consideration.

The last agenda item was to schedule to the next Conference meeting date. The next meeting of the Conference was scheduled for Wednesday, December 8, 2004 at 12:30 p.m. in the Carvel State Office Building in the Supreme Court Large Conference Room. Lunch will be provided.

The meeting adjourned at 1:45 p.m.

Respectfully Submitted,

February 8, 2005